

FILED

MAY 26 1992

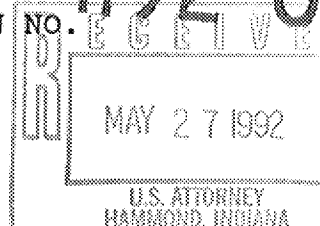
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

SHALDINE J. CROCKETT, CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
LTV STEEL COMPANY, INC.,)
)
Defendant.)

CIVIL ACTION NO.
JUDGE

H92-0185



NOTICE OF LODGING OF PROPOSED CONSENT DECREE PENDING SOLICITATION
OF PUBLIC COMMENT BY U.S. DEPARTMENT OF JUSTICE

Plaintiff, the United States of America, respectfully notifies the Court that the United States is lodging a proposed Consent Decree in settlement of its action, filed herewith, against the defendant, LTV Steel Company, Inc. The proposed Consent Decree is provided to the Court with this Notice and a copy is available in the office of the undersigned Assistant United States Attorney.

The Court should not yet sign the Consent Decree. Instead, the proposed Consent Decree should remain lodged with the Court while the United States provides an opportunity for public comment as required by Department of Justice regulations codified at 28 U.S.C. § 50.7.

The Department will publish in the Federal Register a notice that the proposed Consent Decree has been lodged with the Court. The notice will solicit public comment for a period of 30 days. During the comment period no action is required by the Court.

After the close of the comment period, the United States will evaluate the comments received, if any, and will advise the

Court whether the United States requests that the Consent Decree be entered.

The United States will include a copy of this Notice with the Complaint in this case in its service by mail on the defendant.

Respectfully submitted,

BARRY M. HARTMAN
Acting Assistant Attorney General
Environment and Natural
Resources Division
U.S. Department of Justice

JOHN F. HOEHNER
United States Attorney
Northern District of Indiana

By: *J. Philip Klingenberg, AUSA*
For: ANDREW B. BAKER, JR.
Assistant United States Attorney
Northern District of Indiana
1001 Main Street, Suite A
Dyer, Indiana 46311

Thomas M. Giller
THOMAS M. GILLER
Attorney
Environmental Enforcement Section
U.S. Department of Justice
c/o U.S. EPA, Region V (C-3T)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
(312) 353-5996

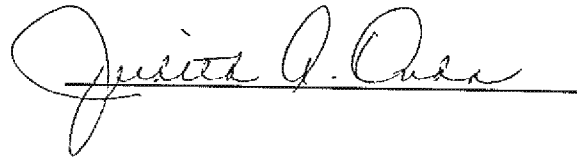
OF COUNSEL:

Reginald A. Pallesen
Assistant Regional Counsel
United States Environmental
Protection Agency, Region V
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I certify that on May 26, 1992, copies of the foregoing SUMMONS IN A CIVIL ACTION, COMPLAINT, CONSENT DECREE, and NOTICE OF LODGING OF PROPOSED CONSENT DECREE PENDING SOLICITATION OF PUBLIC COMMENT BY U.S. DEPARTMENT OF JUSTICE were served upon the following person by depositing the same in the United States Mail with sufficient postage affixed thereto:

Dale E. Papajcik
LTV Steel Company
Law Department
LTV Steel Building
26 West Prospect Avenue
Cleveland, Ohio 44115.

A handwritten signature in cursive script, appearing to read "Judith A. Chas", is written over a horizontal line.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

FILED

MAY 26 1992

GERALDINE J. CROCKETT, CLERK
U. S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
LTV STEEL COMPANY, INC.,)
)
Defendant.)

CIVIL ACTION NO.

JUDGE

H92-0185

COMPLAINT

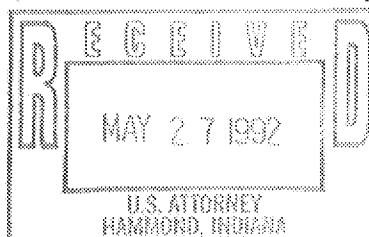
Plaintiff, the United States of America, by its undersigned attorneys, by authority of the Attorney General of the United States, and at the request of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), alleges:

NATURE OF ACTION

1. This is a civil action brought against LTV Steel Company, Inc. ("LTV" or "Defendant"), pursuant to Section 309(b) and (d) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(b) and (d), for injunctive relief and civil penalties to redress LTV's violations of Section 301 of the Act, 33 U.S.C. § 1311, and LTV's National Pollutant Discharge Elimination System ("NPDES") permit, issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355 and Section 309(b) of the Act, 33 U.S.C. § 1319(b).



3. Venue is proper in this District pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), and 28 U.S.C. § 1391(b), because the cause of action arose in this District.

REQUIRED NOTICE

4. Plaintiff has notified the State of Indiana of the commencement of this action, pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b).

DEFENDANT

5. Defendant LTV is a corporation organized under the laws of the State of New Jersey. LTV formerly was known as Republic Steel Corporation.

6. LTV is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

7. On July 17, 1986, LTV filed for protection under Chapter 11 of the Bankruptcy Code in the United States District Court for the Southern District of New York. LTV has operated as a debtor-in-possession since that time.

8. LTV owns and operates a steel-making facility known as the Indiana Harbor Works ("facility"), located at 3001 Dickey Road, East Chicago, Indiana, within this District.

9. LTV's facility is an integrated primary steel manufacturing plant, with cold and hot forming and tin, zinc, and chromium finishing and plating operations. The violations alleged herein all have occurred at this facility subsequent to July 1986.

STATUTORY BACKGROUND

10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into navigable waters of the United States by any person except in accordance with the Act and as authorized by an NPDES permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

11. Pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. § 1319(b) and (d), U.S. EPA may commence a civil action for injunctive relief and civil penalties of up to \$25,000 per day of violation of the Act, including violations of the terms and conditions of an NPDES permit.

12. Section 402(b) of the Act, 33 U.S.C. § 1342(b), authorizes the Administrator of U.S. EPA, in appropriate circumstances, to delegate to States the authority to issue NPDES permits.

GENERAL ALLEGATIONS

13. On January 1, 1975, the Administrator of U.S. EPA delegated to the Indiana Stream Pollution Control Board ("ISPCB") the authority to issue NPDES permits. The ISPCB has been replaced by the Indiana Department of Environmental Management ("IDEM").

14. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, IDEM issued NPDES Permit No. IN0000205 to LTV on October 1, 1986. Exhibit 1, attached to this complaint, is a true and accurate copy of LTV's NPDES permit. Although the permit was originally scheduled to expire on September 29, 1991, it remains in effect

pending a final determination by IDEM on LTV's permit renewal application, pursuant to Chapter 10, Section 2(e) of the Indiana Environmental Management Act, Ind. Code § 13-7-10-2(e).

15. LTV's NPDES permit authorizes LTV, inter alia, to discharge treated wastewaters and stormwaters from the facility to the Indiana Harbor Ship Canal, and to discharge stormwaters to Lake Michigan, subject to the terms and conditions of the permit, including effluent limitations, monitoring requirements, and the use of specified point sources, also referred to as outfalls.

16. The Indiana Harbor Ship Canal, Indiana Harbor, Lake Michigan, and the water intake channels at the LTV facility, including the intake channel known as the "No. 2 intake flume," are each "navigable waters" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

17. Discharge pipes and a hydraulic connection between the oil separation pond and the No. 2 intake flume at LTV's facility are "point sources" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

FIRST CLAIM FOR RELIEF

18. Paragraphs 1-17 above are incorporated herein by reference as if set forth in full.

19. On February 26, 1988, approximately 300 to 400 gallons of oil were discharged from an oil separation pond at the LTV facility into the No. 2 intake flume, which is connected to Indiana Harbor and Lake Michigan. Of the 300 to 400 gallons of

oil released into the No. 2 intake flume, approximately 150 gallons reached Indiana Harbor and Lake Michigan.

20. Oil is a "pollutant" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

21. During a March 9, 1988, inspection of LTV's facility, U.S. EPA representatives determined that oil had been discharged through an underground channel or tunnel connecting the oil separation pond to the No. 2 intake flume.

22. The discharge of oil into the No. 2 intake flume and then into Indiana Harbor and Lake Michigan was not authorized by LTV's NPDES permit, and therefore violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

23. Pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. § 1319(b) and (d), LTV is liable for injunctive relief and civil penalties not to exceed \$25,000 per day of violation for each violation of the Act and its NPDES permit.

SECOND CLAIM FOR RELIEF

24. Paragraphs 1-23 above are incorporated herein by reference as if set forth in full.

25. During its March 9, 1988, inspection of the LTV facility, U.S. EPA representatives also observed two discharge pipes that are not permitted under LTV's NPDES permit. One pipe discharged wastewater directly into the No. 2 intake flume. The other pipe discharged wastewater into the oil separation pond, which was connected to the No. 2 intake flume. Both discharge points had existed at the facility since at least October 1983.

26. Since at least July 17, 1986, when LTV filed for protection under Chapter 11 of the Bankruptcy Code, LTV has discharged oil and wastewater containing other pollutants through these unpermitted discharge points into the No. 2 intake flume, and then into Indiana Harbor and Lake Michigan, in violation of its NPDES permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

27. Pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. § 1319(b) and (d), LTV is liable for injunctive relief and civil penalties not to exceed \$25,000 per day of violation for each violation of the Act and its NPDES permit.


RELIEF REQUESTED

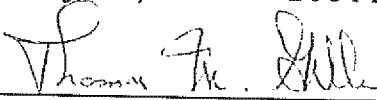
WHEREFORE, Plaintiff, the United States of America, requests that this Court:

- A. Permanently enjoin LTV from any and all future violations of its NPDES permit and Section 301 of the Act, 33 U.S.C. § 1311;
- B. Order LTV immediately to undertake and expeditiously complete such affirmative actions as are required and necessary to ensure that LTV operates its facility in compliance with the Act and its NPDES permit;
- C. Assess a civil penalty against LTV not to exceed \$25,000 for each day LTV violated Section 301 of the Act, 33 U.S.C. § 1311;
- D. Award Plaintiff its costs and disbursements of this action; and


E. Grant such other relief as this Court deems just and proper.

Respectfully submitted,


 BARRY M. HARTMAN
 Acting Assistant Attorney General
 Environment and Natural
 Resources Division
 U.S. Department of Justice
 P.O. Box 7611
 Ben Franklin Station
 Washington, D.C. 20044


 THOMAS M. GILLER
 Attorney
 Environmental Enforcement Section
 U.S. Department of Justice
 c/o U.S. EPA, Region V (C-3T)
 77 West Jackson Boulevard
 Chicago, Illinois 60604-3590
 (312) 353-5996

JOHN F. HOEHNER
 United States Attorney
 Northern District of Indiana

By: 
 For: ANDREW B. BAKER, JR.
 Assistant United States Attorney
 Northern District of Indiana
 1001 Main Street, Suite A
 Dyer, Indiana 46311

OF COUNSEL:

Reginald A. Pallesen
 Assistant Regional Counsel
 United States Environmental
 Protection Agency, Region V
 77 West Jackson Boulevard
 Chicago, Illinois 60604-3590